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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-949]

Large Diameter Graphite Electrodes from India: Preliminary Affirmative Critical Circumstances Determination in Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration,
Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that critical circumstances exist with respect to imports of large diameter graphite electrodes (large graphite electrodes) from India. The period of investigation is January 1, 2025, through December 31, 2025. Interested parties are invited to comment on this preliminary determination of critical circumstances.

DATES: Applicable **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT: Robert Galantucci, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2923.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 2026, Commerce published the notice of initiation of this countervailing duty (CVD) investigation in the *Federal Register*.¹ On July 30, 2026, Commerce published its *Preliminary Determination*.² On September 1, 2026, Resonac Graphite America Inc. and Tokai Carbon GE LLC (the petitioners) filed a timely critical circumstances allegation, pursuant to section 703(e)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206, alleging that critical circumstances exist with respect to large graphite electrodes from India.³

In accordance with sections 703(e)(1) of the Act and 19 CFR 351.206(c)(1), because the petitioners submitted the critical circumstances allegation more than 30 days before the scheduled date of the final determination, Commerce will make a preliminary finding as to whether there is a reasonable basis to believe or suspect that critical circumstances exist. Because the critical circumstances allegation in this case was submitted after the *Preliminary Determination*, Commerce must issue its preliminary findings of critical circumstances no later than 30 days after the allegation was filed.⁴

Critical Circumstances Allegation

The petitioners allege that there was a massive increase in imports of large graphite electrodes from India and provided monthly import data for the period of

¹ See *Large Diameter Graphite Electrodes from the People's Republic of China and India: Initiation of Countervailing Duty Investigations*, 91 FR 13577 (March 20, 2026) (*Initiation Notice*).

² See *Large Diameter Graphite Electrodes from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 91 FR 48081 (July 30, 2026) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

³ See Petitioners' Letter, "Allegation of Critical Circumstances," dated September 1, 2026 (Petitioners' Allegation).

⁴ See 19 CFR 351.206(c)(2)(ii).

October 2025 through July 2026.⁵ The petitioners state that a comparison of total imports, by quantity, for the base period of October 2025 through February 2026, with the comparison period of March 2026 through July 2026, shows that imports from India increased by more than 15percent, which is considered “massive” under 19 CFR 351.206(h)(2) and section 703(e)(1)(b) of the Act.⁶ The petitioners also allege that there is a reasonable basis to believe that there are subsidies in this investigation which are inconsistent with the Subsidies and Countervailing Measures (SCM Agreement) of the World Trade Organization.⁷

Critical Circumstances Analysis

Section 703(e)(1) of the Act provides that Commerce will preliminarily determine that critical circumstances exist in a CVD investigation if there is a reasonable basis to believe or suspect that: (A) the alleged countervailable subsidy is inconsistent with the SCM Agreement;⁸ and (B) there have been massive imports of the subject merchandise over a relatively short period.

In determining whether “massive imports” occurred over a “relatively short period,” pursuant to section 703(e)(1)(B) of the Act and 19 CFR 351.206(h) and (i), Commerce normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the base period) to a comparable period of at least three months following the filing of the petition (*i.e.*, the

⁵ See Petitioners’ Allegation at 6.

⁶ *Id.*

⁷ *Id.* at 3-4.

⁸ Commerce limits its critical circumstances findings to those subsidies contingent upon export performance or use of domestic over imported goods (*i.e.*, those prohibited under Article 3 of the SCM Agreement). See, e.g., *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire from Germany*, 67 FR 55808, 55809-10 (August 30, 2002).

comparison period). However, the regulations also provide that if Commerce finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, Commerce may consider a period of not less than three months from the earlier time.⁹ Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.¹⁰

Alleged Countervailable Subsidies Are Inconsistent with the SCM Agreement

Commerce considered the evidence on the record that certain programs are inconsistent with the SCM Agreement because they are contingent upon export performance. Based on information on the record, we preliminarily find a reasonable basis to believe or suspect that Graphite India Limited (GIL), HEG Limited (HEG), and all other producers and/or exporters received countervailable subsidies inconsistent with the SCM Agreement under section 703(e)(1)(A) of the Act. Such programs include: Advance Authorization Program; Duty Drawback Program; Export Promotion of Capital Goods Scheme; and Remission of Duties and Taxes on Export Products.¹¹ Thus, because there is a reasonable basis to believe or suspect these programs are inconsistent with the SCM Agreement, we preliminarily find that the criterion under section 703(e)(1)(A) of the Act has been met.

Massive Imports

Commerce compared the import volumes of GIL's and HEG's reported shipments of subject merchandise for the five months immediately preceding and the five months

⁹ See 19 CFR 351.206(i).

¹⁰ See 19 CFR 351.206(h)(2).

¹¹ See *Preliminary Determination* PDM at 13-25.

following the filing of the petition. Because the petition was filed on February 24, 2026, and in order to determine whether there was a massive surge in imports for the mandatory respondents, Commerce compared the total volume of shipments during the period of October 2025 through February 2025 (the base period) with the volume of shipments during the period of March 2025 through July 2021 (the comparison period).¹² We preliminarily determine that imports from both GIL and HEG increased by more than 15 percent between the base and comparison periods.¹³

To determine whether imports were massive for all other exporters or producers, Commerce's normal practice is to subtract shipments reported by the cooperating mandatory respondents from import data for subject merchandise.¹⁴ However, this analysis was not possible in this investigation because, for several months of the base and comparison periods, the quantity of shipments reported by GIL and HEG exceeded the quantity of shipments reported in the third-party import data submitted in the Petitioners' Allegation.¹⁵ Therefore, we find that the third-party import data on the record are not reliable to determine whether imports of covered merchandise were massive between the base and comparison periods for all other exporters and producers. Consequently, we relied upon an average of GIL's and HEG's shipments during the base and comparison period.¹⁶ Based on these data, we find that there was an increase in imports of more than

¹² See HEG's Letter, "Critical Circumstances Allegation Rebuttal Factual Information," dated September 11, 2026 (HEG Critical Circumstances Data) at Exhibit CC-1; *see also* GIL's Letter, "Graphite India Limited's Monthly Quantity and Value Shipment Data," dated September 16, 2026 (GIL Critical Circumstances Data) at Exhibit QV-1.

¹³ See Memorandum, "Critical Circumstances Analysis," dated concurrently with this notice.

¹⁴ See, e.g., *Antidumping Duty Investigation on Refillable Stainless Steel Kegs from Mexico: Preliminary Affirmative Determination of Critical Circumstances*, 84 FR 18796, 18798 (May 2, 2019).

¹⁵ See Petitioners' Allegation at Attachments 2-3; *see also* GIL Critical Circumstances Data at Exhibit QV-1; and HEG Critical Circumstances Data at Exhibit CC-1.

¹⁶ See, e.g., *Certain Cold-Rolled Steel Flat Products from the Russian Federation: Affirmative Preliminary*

15 percent between the base and comparison periods. We therefore preliminarily determine that there was a massive surge in imports between the base and comparison periods for all other producers and exporters from India.

Final Determination

We will make a final determination concerning critical circumstances in the final determination of this investigation, which is currently scheduled for December 7, 2026.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. A timeline for the submission of case briefs and written comments will be provided to interested parties at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁷ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁸ As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁹ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment

Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination, 81 FR 12072 (March 8, 2016), and accompanying PDM at 13-14, unchanged in *Certain Cold-Rolled Steel Flat Products from the Russian Federation: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 49950 (July 29, 2016), and accompanying IDM at 7-9.

¹⁷ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹⁸ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁹ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).²⁰

Suspension of Liquidation

In accordance with section 703(e)(2)(A) of the Act, for GIL, HEG, and all other producers and/or exporters, we intend to direct U.S. Customs and Border Protection (CBP) to suspend liquidation of any unliquidated entries of subject merchandise from India entered, or withdrawn from warehouse for consumption, on or after May 1, 2026, which is 90 days prior to the date of publication of the *Preliminary Determination* in the *Federal Register*. For such entries, CBP shall require a cash deposit equal to the estimated preliminary subsidy rates established in the *Preliminary Determination*. This suspension of liquidation will remain in effect until further notice.

U.S. International Trade Commission (ITC) Notification

In accordance with section 703(f) of the Act, we will notify the ITC of this preliminary determination of critical circumstances.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.206.

Dated: September 28, 2026.

²⁰ See *APO and Service Final Rule*.

Scot Fullerton,

Acting Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations.

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